

MEMORANDUM

FROM: Tania L. Proctor, Human Resource Specialist

SUBJ: Family Medical Leave (FML)

DATE: _____

TO: _____

CC: Department Director

If you are an employee who has worked for the Village for at least 12 months and worked with us at least 1250 hours during the previous 12 months, you may be eligible for Family Medical Leave.

Please read the attached Managers Standard Operating Procedure. If you believe you are eligible, you must fill out the employee application form and return immediately. Your medical provider must complete the "Certification of Healthcare Provider" form and have the medical provider either fax the form to HR or you return the form to us. Both forms are also attached to this memo.

IF YOU ARE OFF LONGER THAN THREE DAYS, DUE TO ANY OF THE REASONS LISTED IN THE MANAGERS STANDARD OPERATING PROCEDURE, OR LISTED ON THE U.S. DEPARTMENT OF LABOR YOUR RIGHTS UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993, YOU MUST COMPLETE THE FAMILY MEDICAL LEAVE INFORMATION. IT IS YOUR RESPONSIBILITY TO RETURN THIS INFORMATION IN A TIMELY MANNER. THIS IS A FEDERAL REGULATION THAT WE MUST FOLLOW.

If you have any questions, please contact the Human Resources Department.

Phone Number (575) 258-4343 ext. 1031

Fax Number (575)258-5848

Village of Ruidoso

Lorri McKnight, Manager

Manager Standard Operating Procedure

313 Cree Meadows Drive · Ruidoso, New Mexico 88345

Phone: 505-258-4343 · Fax: 505-258-5361 · E-Mail: LorriMcKnight@vuruidoso.com

Manager Directive: Family Medical Leave (FMLA)

Number: MSOP - 04-02

Effective Date: July 26, 2004

Signed: Original Signed by Lorri McKnight, Manager and is filed
In the Executive Secretary Office

Purpose:

To provide employees of the Village of Ruidoso (commonly called "The Village"), an opportunity to balance their work and family lives without fear of losing their jobs or health benefits according to the requirements of the Family and Medical Leave Act of 1993 and subsequent amendments.

The Family and Medical Leave Act, "FMLA" requires covered employers to provide up to 12 weeks in a 12-month period of unpaid, job-protected leave to eligible employees for certain medical family needs. The 12 weeks of leave within a 12 month will be calculated by the Village as a rolling period, measured backward from the date the employee first used Family Medical Leave (FML).

It is noted that the Village has leave accrual benefits that may exceed the 12 weeks of unpaid leave. In this case, placing someone on FML does not mean the employee has to be placed on unpaid leave. The Family Medical Leave will run concurrent with any paid leave. Under this circumstance, placing someone on FML while giving him/her paid leave is assuring that the Village of Ruidoso complies with the FMLA laws.

Procedure:

Eligible Employee: Employees are eligible only if all of the following conditions are met:

1. the employee has worked for the Village for at least 12 months, and,
2. the employee has worked at least 1,250 hours during the last 12 month period preceding the leave date. These hours shall include actual worked hours and any paid leave taken for calculating hours toward service.

Reason for Leave: An employee is entitled to FMLA for any of the following:

1. The birth of the employee's son or daughter and in order to care for such child;
2. The placement of a son or daughter with the employee for adoption or foster care and in order to care for the newly placed son or daughter;
3. To care for a covered relation with a serious health condition, or;
4. Because of the employee's own serious health condition, which renders that employee unable to perform an essential function of his/her position, including a work related injury.

Leave because of reasons "1" or "2" must be completed within the 12-month period beginning on the date of birth or placement.

****NOTE**:** In addition, spouses employed by the Village who request leave because of reasons "1" or "2" or to care for an employee's parent with a serious health condition may only take a combined total of 12 weeks leave during any 12-month period.

Serious Health Condition (as defined by the federal FMLA): is an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility; or continuing treatment by a healthcare provider (see the FMLA of 1993 Federal Regulations for definition of healthcare provider).

The serious health condition must stem from:

Being incapacitated for more than three days that involves continuing treatment; or

Pregnancy, including prenatal care; or

A chronic serious health condition when the condition continues over an extended period of time and requires periodic visits to the health care facility (e.g. asthma, diabetes, epilepsy, etc); or

A permanent or long term serious health condition when the condition may not respond to treatment but supervision of a health care provider is needed (e.g. Alzheimer's, terminal cancer, etc); or

Incapacity due to multiple treatments for restorative surgery.

The attending physician must make the determination. It is not sufficient for the employee to state that he/she is too sick to report to work. The Village of Ruidoso reserves the right to make the final designation of qualified leaves prior to the leave beginning.

Covered Relation: as defined by the Family Medical Leave Act includes the immediate family of spouse, child, or parent. The Village of Ruidoso shall also include the person who acted in the capacity of a parent ("in loco parentis") to the employee when the employee was a child and the employee is currently the primary care-giver. A grandchild is a "covered relation" only where the employee stands in place as the parent.

Notice of Leave: If the need for family/medical leave is foreseeable, the employee is obligated

and **must** give the Department at least 30 days prior written notice. If this is not possible, the employee must at least give notice as soon as possible (within 1 to 2 business days of learning of the need for leave). Failure of the employee to provide such notice may be grounds for delay of leave. Additionally, if the employee is planning a medical treatment, the employee is obligated to consult with the immediate supervisor first, regarding the dates of such treatment. Where the need for leave is not foreseeable, the employee is obligated to notify the Department within 1 to 2 business days of learning of the need for leave, except in extraordinary circumstances (such as an immediate medical emergency).

In all instances, an employee is required to submit a completed "Employee Request for FMLA Leave of Absence" form when requesting leave. The employee is responsible for obtaining the approval signatures of the immediate Supervisor and Department Director. In the case of the "extraordinary circumstance, the Department Director will work with the employee to make sure the proper paperwork is completed. When an employee is off for three days, the employee will be placed on tentative FMLA leave pending proper paperwork, forms, and processing of the FMLA leave.

In the event The Village of Ruidoso approves FMLA leave for an employee who is not eligible, the leave will be canceled with reasonable notice to the employee.

If an employee knowingly falsifies any FML document, the employee shall be subject to disciplinary action up to and including termination.

Medical Certification: When the employee requests leave, whether for him/herself or a covered relation's serious health condition, the employee and the health care provider **must** supply the appropriate medical certification within 15 days of the requested leave. The "Certification for Health Care Provider" form may be obtained from the Human Resource Department. As long as the medical provider keeps the Village up to date in a work related injury or illness, the medical certification will not be needed.

The "Certification for Health Care Provider" form must be completed and sent to the HR Department of the Village within 15 days of the request for leave. If the employee provides at least 30 days notice of medical leave, the medical certification must be submitted before leave begins.

Reporting While on Leave: When the employee is approved and is placed on FML, (s)he must contact the Village every 30 days regarding the status of the condition, the intention to return work, and/ or if continued leave is necessary. If continued leave is necessary, the employee shall submit a "Periodic Medical Update" form. In addition, the employee must give notice as soon as possible (within two business days if feasible) if the dates of the leave change or are extended or initially were unknown.

Medical and Other Benefits: Family medical leave is unpaid leave, although the employee may be eligible for other paid leave or workers' compensation benefits. If an employee requests leave (except when the employee is receiving workers' compensation payments) any accrued paid time off such as sick or vacation time will be substituted for unpaid family/medical leave until that benefit has been exhausted. When taking leave due to worker's compensation, the employee can use accrued paid leave for the required seven day waiting period.

The substitution of paid leave time for unpaid leave time does not extend the 12 week FM leave period. Further, in no case can the substitution of paid leave time for unpaid leave time result in the receipt of more than 100 percent of the base salary. FM qualifying leave will run concurrent with any paid time off, vacation or sick leave accrued hours. In other words, FM leave may be paid or unpaid depending on the amount of accrued paid time off, the employee may have. If available, paid time will be applied as follows, sick leave, vacation leave, unpaid FMLA bank.

If the employee chooses to use any accrued compensatory time off balance s/he may have, this time will not be counted towards the 12 weeks of FML.

Paid time off benefits will cease accruing while on unpaid FMLA leave.

During an approved FM leave, the Village will maintain the employees' health benefits, as if the employee is continued to be actively employed. If paid leave is substituted for unpaid FML, the Village will deduct the employee's portion of the health plan premium as a regular payroll deduction. If leave is unpaid, the employee must pay his/her portion of the premium through direct payment as designated by the Human Resources department. Premium payments include: Medical/Dental Insurance, Vision insurance, and Voluntary Life Insurance.

The employee's health care coverage will cease if the premium payment is more than 30 days late. If the payment is more than 15 days late, the Village will notify the employee via letter. If the Village does not receive the employee's premium/contribution within 15 days after the date of this letter, coverage will cease.

Intermittent/Reduced Leave: Leave due to a serious health condition, may be taken intermittently (in separate blocks of time (hours, days, weeks), or on a reduced leave schedule (reducing the usual number of hours worked per workweek or workday) only if,

1. it is medically necessary and,
2. with the Department Director's and Manager's approval.

Time applied to FMLA will be tracked by hours taken. The smallest intermittent time increment is 1 hour.

If an employee takes intermittent leave that is unpaid or works on a reduced schedule, the Village will reduce the employee's salary based on the amount of time actually worked.

Exempt employees will be changed to non-exempt-like status (for payroll purposes only) The employee will remain an exempt employee as defined under the FLSA.

In addition, while the employee is on intermittent or a reduced schedule leave, the Village may temporarily transfer the employee to an available, alternative position, which better accommodates the recurring leave schedule.

Coordination with Workers Compensation Injuries: Because the FMLA allows an employer to cover on the job injury or illness, the FMLA and leave for workers' compensation injury will run concurrently for the Village of Ruidoso employees. If an employee is off three days or

longer and the condition meets the definition of a serious health condition, the time off due to a work related injury will be counted towards FML.

If an employee is offered limited duty under workers' compensation, but opts to take medical leave as defined in this MSOP, the employee will not receive workers' compensation indemnity payments.

*** Highly Compensated Employees:** The Village of Ruidoso is not obligated to return highly compensated employees (i.e., highest paid ten percent (10%) of employees at a work site) their former or equivalent position following a leave if restoration of employment will cause substantial economic injury to the Village. The Village will make this determination on a case by case basis.

Procedure for Family Medical Leave (FML):

There are two ways to be placed on Family Medical Leave. One is that the employee requesting FML completes a request for leave stating it is for FML and submits it to the department for preliminary approval. The second way is that anytime an employee takes three days or more of unplanned leave, the employee will be placed on preliminary FML pending proper paperwork and approval of leave.

1. The employee is to pick up the FML paperwork from the HR department. If the employee needs the paperwork to be sent, the HR department will send it. It is required that the employee have the paperwork completed and ensure it is returned with the required information to the HR department within the required time limits.
2. Once the HR department receives the completed paperwork, it will send the employee a letter approving or disapproving the leave. If approved, the letter will state the amount due for insurance premium payments, and will explain the periodic medical updates and completion of the return-to-work medical certification.
3. The employee is required to report on the FML status every thirty (30) days as defined by the FMLA. The employee's medical provider is required to complete a "Periodic Medical Update" that can be faxed to the HR department.
4. Return to Work:
 - A. If the serious health condition(s) cease(s) earlier than 12 weeks, the employee will be expected to return to work.
 - B. If the employee is unable to return to work after 12 weeks of leave (or approved paid leave, whichever is longer), The HR Department and the Department Director will assess eligibility for reasonable accommodation under the Americans with Disabilities Act. If no accommodation is feasible, the expected return to work date is unknown, and the employee is still unable to perform the essential functions of the job, it will be considered a voluntary resignation.
 - C. If the employee elects not to return to work at the end of the leave period, the employee may be required to reimburse the Village for the cost of the premiums paid by the Village for maintaining coverage during the leave.

This directive is subject to state leave law interpretations. The Village will grant the greater of

the benefits if state law mandates.

Your Rights under the Family and Medical Leave Act of 1993

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons. Employees are eligible if they have worked for their employer for at least one year, and for 1,250 hours over

the previous 12 months, and if there are at least 50 employees within 75 miles. The FMLA permits employees to take leave on an intermittent basis or to work a reduced schedule under certain circumstances.

Reasons for Taking Leave:

Unpaid leave must be granted for *any* of the following reasons:

- to care for the employee's child after birth, or placement for adoption or foster care;
- to care for the employee's spouse, son or daughter, or parent who has a serious health condition; or
- for a serious health condition that makes the employee unable to perform the employee's job.

At the employee's or employer's option, certain kinds of *paid* leave may be substituted for unpaid leave.

Advance Notice and Medical Certification:

The employee may be required to provide advance leave notice and medical certification. Taking of leave may be denied if requirements are not met.

- The employee ordinarily must provide 30 days advance notice when the leave is "foreseeable."
- An employer may require medical certification to support a request for leave because of a serious health condition, and may require second or third opinions (at the employer's expense) and a fitness for duty report to return to work.

Job Benefits and Protection:

- For the duration of FMLA leave, the employer must maintain the employee's health coverage under any "group health plan."

- Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.
- The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Unlawful Acts by Employers:

FMLA makes it unlawful for any employer to:

- interfere with, restrain, or deny the exercise of any right provided under FMLA;
- discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement:

- The U.S. Department of Labor is authorized to investigate and resolve complaints of violations.
- An eligible employee may bring a civil action against an employer for violations.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

For Additional Information:

If you have access to the Internet visit our FMLA website: <http://www.dol.gov/esa/whd/fmla>. To locate your nearest Wage-Hour Office, telephone our Wage-Hour toll-free information and help line at 1-866-4USWAGE (1-866-487-9243): a customer service representative is available to assist you with referral information from 8am to 5pm **in your time zone**; or log onto our Home Page at <http://www.wagehour.dol.gov>.



U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division
Washington, D.C. 20210

WH Publication 1420
Revised August 2001

Sus Derechos bajo La Ley de Ausencia Familiar y Médica de 1993

La Ley de Ausencia Familiar y Médica de 1993 (LAFM) requiere que patrones sujetos a la ley provean a sus empleados 12 semanas de ausencia del trabajo sin paga por ciertas razones familiares médicas, con protección del empleo a empleados

"elegibles." Se consideran elegibles a los empleados de dicho patrón quienes hayan trabajado un año, y trabajado 1,250 horas o más en los últimos 12 meses, y trabajan dentro de un área de 75 millas donde se ocupan a 50 empleados o más del mismo patrón.

Razones para Solicitar Ausencia:

Tiene derecho un empleado de tomar ausencia del trabajo sin paga por cualquiera de las siguientes razones:

- para cuidar a un niño recién nacido, o llevar a cabo una adopción o crianza, de un niño del empleado;
- para cuidar a un cónyuge (esposo/a), hijo/a, o *cualquiera* de los padres, quien padezca de un estado de salud grave, o;
- por un estado de salud grave que le impide a un empleado desempeñar su trabajo.

Se puede elegir por parte del empleado o el patrón substituir una ausencia sin paga por una ausencia pagada si el empleado tiene el tiempo pagado acumulado.

Notificación por Adelantado y Certificado Médico:

Se le puede exigir a un empleado que notifique por adelantado la necesidad de estar ausente, y además exigirle que provea certificado médico. Se puede negar el permiso si el empleado no cumple con estos requisitos.

- Por lo general se requiere que el empleado notifique al patrón con 30 días por adelantado cuando la ausencia es "anticipada."
- El patrón puede exigirle un certificado médico al empleado que pide tomar ausencia por motivo de un estado de salud grave, y puede exigir una segunda o tercera opinión médica (a cuenta del patrón), y además puede exigir un certificado médico de la salud, estado físico y capacidad del empleado para regresar al trabajo.

Beneficios y Protección del Empleo:

Durante una ausencia, el patrón tendrá que mantener en vigor el seguro de salud del empleado bajo cualquier "plan de salud de grupo" en existencia.

- Al regresar de una ausencia los empleados tienen el derecho a su trabajo original o a un trabajo equivalente con sueldo, beneficios, y otras condiciones de empleo equivalentes.
- Una ausencia no puede resultar en la pérdida de ningún beneficio acumulado antes de que el empleado comenzara la ausencia del trabajo.

Actos Ilegales Por Parte del Patrón:

La LAFM le prohíbe al patrón lo siguiente:

- que interfiera, restrinja, o niegue que se ejercite cualquier derecho estipulado por la LAFM;
- que se despidan o se discrimine en contra de cualquier persona que se oponga a una práctica prohibida por la LAFM, o se involucre en cualquier procedimiento relacionado a esta ley.

Ejecución:

- El "Department of Labor" tiene la autoridad de investigar y resolver quejas de infracciones de la LAFM.
- El empleado elegible puede demandar a un patrón por medio de acción civil por infracciones de la LAFM.

La LAFM no afecta ninguna ley federal o estatal que prohíba la discriminación, ni reemplaza ninguna ley estatal o local, o convenio sindical que provea más amplios derechos de ausencia familiar o médica.

Para Más Información:

Si tiene acceso al internet, visite la página de la LAFM: <http://www.dol.gov/esa/whd/fmla>. Para localizar la oficina de horarios y salarios más cercana, llame a nuestra línea gratis de información y ayuda al 1-866-4USWAGE (1-866-487-9243). Representantes están disponibles para asistir con información desde 8am a 5pm **en su zona horaria**; o visite nuestra página de internet <http://www.wagehour.dol.gov>.



US Department of Labor
Employment Standards Administration
Wage and Hour Division
Washington, D.C. 20210

WH Publication 1420SP
Revised August 2001

NOTICE

Military Family Leave

On January 28, President Bush signed into law the National Defense Authorization Act for FY 2008 (NDAA), Public Law 110-181. Section 585(a) of the NDAA amended the FMLA to provide eligible employees working for covered employers two important new leave rights related to military service:

- (1) New Qualifying Reason for Leave.** Eligible employees are entitled to up to 12 weeks of leave because of “any qualifying exigency” arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation. By the terms of the statute, this provision requires the Secretary of Labor to issue regulations defining “any qualifying exigency.” In the interim, employers are encouraged to provide this type of leave to qualifying employees.
- (2) New Leave Entitlement.** An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to up to 26 weeks of leave in a single 12-month period to care for the servicemember. This provision became effective immediately upon enactment. This military caregiver leave is available during “a single 12-month period” during which an eligible employee is entitled to a combined total of 26 weeks of all types of FMLA leave.

Additional information on the amendments and a version of Title I of the FMLA with the new statutory language incorporated are available on the FMLA amendments Web site at http://www.dol.gov/esa/whd/fmla/NDAA_fmla.htm.



AVISO

Ausencia Para Familias Militares

El 28 de enero, el presidente Bush promulgó la Ley de Autorización para la Defensa Nacional, para el Año Fiscal 2008 (NDAA-las siglas de la Ley en inglés), Ley Pública 110-181. La Sección 585(a) de la NDAA enmendó la FMLA para proveer a los empleados elegibles, que trabajan para empresarios bajo el alcance de la ley, dos importantes nuevos derechos de ausencia relacionados al servicio militar:

- (1) Nueva Razón Calificadora para Ausencia.** Empleados elegibles tienen derecho a hasta 12 semanas de ausencia por “cualquier exigencia calificadora” que surja a causa del hecho de que el cónyuge, hijo, hija, o padre/madre del empleado esté en servicio activo, o se le haya avisado de una llamada inminente a estado de servicio activo, para respaldar una operación contingente. Según los términos del estatuto, esta provisión le exige al/a la Ministro/a de Trabajo que emita reglamentos definiendo “cualquier exigencia calificadora.” Entretanto, se anima a todo empresario a que proporcione este tipo de ausencia a empleados que califiquen.
- (2) Nuevo Derecho de Ausencia.** Un empleado elegible que sea el/la cónyuge, hijo, hija, padre/madre, o parientes más próximos de un/una militar bajo el alcance, que esté recuperándose de una enfermedad grave o lesión sufrida en cumplimiento del deber en el servicio activo, tiene derecho a hasta 26 semanas de ausencia en un período único de 12 meses para cuidar al/la militar. Esta provisión se puso en vigor inmediatamente con la promulgación de esta ley. Esta ausencia militar para proveedores de cuidado, está disponible durante “un período único de 12 meses” durante el cual un empleado elegible tiene derecho a un total compuesto de 26 semanas para todo tipo de ausencia bajo la FMLA.

Información adicional sobre las enmiendas y sobre una versión del Título I de la FMLA con la incorporación de la nueva terminología estatutaria está disponible en el sitio en la Red para las enmiendas a la FMLA en la dirección http://www.dol.gov/esa/whd/fmla/NDAA_fmla.htm.



VILLAGE OF RUIDOSO
APPLICATION FOR FAMILY AND MEDICAL LEAVE (FMLA)

Name: _____

Department: _____

Supervisor: _____

Current Home Address (mailing address): _____

Current Home Telephone Number: _____

Cell Phone _____

Alternate Phone Number: _____

Anticipated Date for Leave to Begin: / /

Expected Date of Return / /

Reason for Leave (check one):

- ☐ Birth of a child
- ☐ Adoption or foster care of a new child
- ☐ Care for spouse, son, daughter, or parent who has a serious health condition
- ☐ Serious health condition that makes me unable to perform essential functions of my job

Military Leave (Select One)

- ☐ Qualifying Exigency Leave
- ☐ Service Member Leave

I understand that FMLA is based on medical necessity of a serious health condition or the serious health condition of myself, my spouse, child, or parent, I am required to submit a Certification of Health Care Provider, completed by the appropriate health provider. This form will be provided by the Village of Ruidoso Human Resources Department.

I understand that it is my responsibility to provide the information requested by the Village of Ruidoso Human Resources Department in a timely manner, and I must make appropriate arrangements prior to my leave with the VOR Human Resources Department as to how I will cover my payroll deductions previously authorized by me (medical insurance coverage, life ins., dental, etc.) during my absence.

I have been provided printed information titled "YOUR RIGHTS UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993" and applicable portions of the Village of Ruidoso Policies Regarding FMLA to review.

Furthermore, I recognize that this is a notice for family and medical leave that is subject to review. Approval is dependent on timely receipt of appropriate medical documentation completed by authorized medical professional. Taking unapproved leave may result in disciplinary action including and leading up to termination.

I understand that I must keep the Human Resources Department updated on my leave and may be required to provide Human Resources with additional physician's statements as requested attesting to my continued inability to work.

Once my leave begins, I understand that I cannot return to work until I present the Village of Ruidoso Human Resources Department with a note from my physician indicating that I am able of returning to work and stating if any restrictions apply.

Employee's Signature: _____

Date: _____

ACKNOWLEDGEMENT OF RECEIPT OF REQUEST:

VOR HR Representative Signature: _____

Date: _____



(When completed, this form goes to the employee, **Not to the Department of Labor.**)

OMB No.: 1215-0181
Expires: 09-30-2010

1. Employee's Name

2. Patient's Name (If different from employee)

3. Page 4 describes what is meant by a "**serious health condition**" under the Family and Medical Leave Act. Does the patient's condition¹ qualify under any of the categories described? If so, please check the applicable category.

(1) _____ (2) _____ (3) _____ (4) _____ (5) _____ (6) _____ , or None of the above _____

4. Describe the **medical facts** which support your certification, including a brief statement as to how the medical facts meet the criteria of one of these categories:

5. a. State the approximate **date** the condition commenced, and the probable duration of the condition (and also the probable duration of the patient's present **incapacity**² if different):

b. Will it be necessary for the employee to take work only **intermittently or to work on a less than full schedule** as a result of the condition (including for treatment described in Item 6 below)?

If yes, give the probable duration:

c. If the condition is a **chronic condition** (condition #4) or **pregnancy**, state whether the patient is presently incapacitated² and the likely duration and frequency of **episodes of incapacity**²:

¹ Here and elsewhere on this form, the information sought relates **only** to the condition for which the employee is taking FMLA leave.

² "Incapacity," for purposes of FMLA, is defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom.

-
6. a. If additional **treatments** will be required for the condition, provide an estimate of the probable number of such treatments.

If the patient will be absent from work or other daily activities because of **treatment** on an **intermittent** or **part-time** basis, also provide an estimate of the probable number of and interval between such treatments, actual or estimated dates of treatment if known, and period required for recovery if any:

- b. If any of these treatments will be provided by **another provider of health services** (e.g., physical therapist), please state the nature of the treatments:

- c. **If a regimen of continuing treatment** by the patient is required under your supervision, provide a general description of such regimen (e.g., prescription drugs, physical therapy requiring special equipment):

-
7. a. If medical leave is required for the employee's **absence from work** because of the **employee's own condition** (including absences due to pregnancy or a chronic condition), is the employee **unable to perform work** of any kind?

- b. If able to perform some work, is the employee **unable to perform any one or more of the essential functions of the employee's job** (the employee or the employer should supply you with information about the essential job functions)?
If yes, please list the essential functions the employee is unable to perform:

- c. If neither a. nor b. applies, is it necessary for the employee to be **absent from work for treatment**?

8. a. If leave is required to **care for a family member** of the employee with a serious health condition, **does the patient require assistance** for basic medical or personal needs or safety, or for transportation?

b. If no, would the employee's presence to provide **psychological comfort** be beneficial to the patient or assist in the patient's recovery?

c. If the patient will need care only **intermittently** or on a part-time basis, please indicate the probable **duration** of this need:

Signature of Health Care Provider

Type of Practice

Address

Telephone Number

Date

To be completed by the employee needing family leave to care for a family member:

State the care you will provide and an estimate of the period during which care will be provided, including a schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full schedule:

Employee Signature

Date

A “**Serious Health Condition**” means an illness, injury impairment, or physical or mental condition that involves one of the following:

1. Hospital Care

Inpatient care (*i.e.*, an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity² or subsequent treatment in connection with or consequent to such inpatient care.

2. Absence Plus Treatment

(a) A period of incapacity² of **more than three consecutive calendar days** (including any subsequent treatment or period of incapacity² relating to the same condition), that also involves:

- (1) **Treatment**³ **two or more times** by a health care provider, by a nurse or physician’s assistant under direct supervision of a health care provider, or by a provider of health care services (*e.g.*, physical therapist) under orders of, or on referral by, a health care provider; or
- (2) **Treatment** by a health care provider on **at least one occasion** which results in a **regimen of continuing treatment**⁴ under the supervision of the health care provider.

3. Pregnancy

Any period of incapacity due to **pregnancy**, or for **prenatal care**.

4. Chronic Conditions Requiring Treatments

A **chronic condition** which:

- (1) Requires **periodic visits** for treatment by a health care provider, or by a nurse or physician’s assistant under direct supervision of a health care provider;
- (2) Continues over an **extended period of time** (including recurring episodes of a single underlying condition); and
- (3) May cause **episodic** rather than a continuing period of incapacity² (*e.g.*, asthma, diabetes, epilepsy, etc.).

5. Permanent/Long-term Conditions Requiring Supervision

A period of **Incapacity**² which is **permanent or long-term** due to a condition for which treatment may not be effective. The employee or family member must be **under the continuing supervision of, but need not be receiving active treatment by, a health care provider**. Examples include Alzheimer’s, a severe stroke, or the terminal stages of a disease.

6. Multiple Treatments (Non-Chronic Conditions)

Any period of absence to receive **multiple treatments** (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for **restorative surgery** after an accident or other injury, **or** for a condition that **would likely result in a period of Incapacity² of more than three consecutive calendar days in the absence of medical intervention or treatment**, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), and kidney disease (dialysis).

This optional form may be used by employees to satisfy a mandatory requirement to furnish a medical certification (when requested) from a health care provider, including second or third opinions and recertification (29 CFR 825.306).

Note: Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number.

³ Treatment includes examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations.

⁴ A regimen of continuing treatment includes, for example, a course of prescription medication (*e.g.*, an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider.

Public Burden Statement

We estimate that it will take an average of 20 minutes to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, Department of Labor, Room S-3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

DO NOT SEND THE COMPLETED FORM TO THIS OFFICE; IT GOES TO THE EMPLOYEE.
